

Applicants: Harold J. Wanebo and Shashikant Mehta  
Serial No.: 09/287,884  
Filed: April 7, 1999  
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#### REMARKS

Claims 20-33 and 42-54 are pending in the subject application. Applicants have hereinabove canceled claim 30 without disclaimer or prejudice to applicants' right to pursue the subject matter of this claim in the future. Upon entry of this amendment, claims 20-29, 31-33 and 42-55 will be pending and under examination.

#### Declaration Under 37 C.F.R. §1.132

The Examiner indicated on page 2 of the December 4, 2008 Final Office Action that the Declaration of Dr. Harold Wanebo has been received and entered into the record. The Examiner further noted that the declaration has not been considered because it is incomplete. Specifically, the Examiner noted that pages 3 and 4 of the Declaration are missing and as such it is not clear what experiments resulted in the data presented in Exhibits B-G. The Examiner further noted that the Examiner relied on the discussion of the data presented in Exhibits B-g as presented in Applicant's remarks at pages 14-17 of the Amendment filed August 15, 2008.

In response, applicants attach hereto as **Exhibit 1**, a copy of the signed declaration of Dr. Harold Wanebo, including pages 3-4. Applicants note that pages 3 and 4 were inadvertently non submitted with the Declaration filed August 15, 2008.

#### Withdrawn Rejections

Applicants acknowledge that the Examiner has withdrawn the rejection of claims 20, 25, and 31 under 35 U.S.C. §103 as being unpatentable over Jayadev et al. in view of Mycek et al.

Applicants acknowledge that the Examiner has withdrawn the rejection of claims 20-29 and 31-33 under 35 U.S.C. §103 as being unpatentable over Spencer et al. in view of Cai et al.

#### Allowable Subject Matter

The Examiner indicated on page 5 of the December 4, 2008 Final Office

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Action that claims 20-29, 31-33 and 42-54 are allowable.

**Rejections Under 35 U.S.C. §103**

The Examiner maintained the rejection of claim 30 under 35 U.S.C. §103 as being allegedly unpatentable over Jayadev et al. in view of Mycek et al. The Examiner also maintained the rejection of claim 30 as allegedly being unpatentable over Spencer et al. in view of Cai et al.

In response, applicants respectfully traverse the Examiner's ground of rejection. Nevertheless, without conceding the correctness of the Examiner's rejection, applicants note that claim 30 has been canceled hereinabove, without disclaimer or prejudice, thereby rendering moot this ground of rejection under 35 U.S.C. §103(a).

**Conclusion**

In view of the remarks hereinabove, applicants respectfully submit that the grounds of rejection set forth in the December 4, 2008 Final Office Action have been overcome. Applicants respectfully solicit a Notice of Allowance.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided below.

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No fee, other than the enclosed \$555.00 fee for filing a Three-Month Extension of Time is deemed necessary in connection with the filing of this Amendment. However, if any additional fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

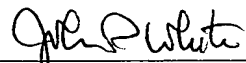
Respectfully submitted,



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 6/4/09  
John P. White Date  
Reg. No. 28,678